

Facts About...

Animal Feeding Operation Environmental Permitting

Large or medium sized animal feeding operations (AFOs) that “propose to discharge” or could discharge manure, litter or process wastewater to waters of the State must apply for coverage under the General Discharge Permit for Animal Feeding Operations (GD Permit) as a concentrated animal feeding operation (CAFO). In addition, large AFOs that do not discharge to surface waters of the State, but discharge to ground waters of the State, must apply for coverage under the GD Permit as a Maryland Animal Feeding Operation (MAFO).

The following checklist will help you determine if you are required to apply for these permits and walk you through the five steps in the permitting process.

The standard turnaround time to register for CAFO or MAFO GD Permit coverage is 180 days. This means that it can take up to 180 days to acquire coverage once your Notice of Intent (NOI) and the required plans are **considered complete**. You must plan ahead to assure that you have submitted your NOI prior to receiving animals to avoid non-compliance with AFO requirements.

Contact Gary Kelman of MDE’s AFO Section if you have any questions at 410-537-4423 or gkelman@maryland.gov.

Step 1: Use the following table to determine the size of your operation. Steps 1A through 1F will help you determine whether your operation is a CAFO or a MAFO.

Animal Type	Size of Animal Feeding Operations based on Number of Animals and/or House Capacity in square feet		
	A	B	C
	Large	Medium	Small
Cattle (includes heifers)	1,000 or more animals	300—999 animals	less than 300 animals
Dairy cattle	700 or more animals	200—699 animals	less than 200 animals
Horses	500 or more animals	150—499 animals	less than 150 animals
Veal	1,000 or more animals	300—999 animals	less than 300 animals
Swine ≥ 55 pounds	2,500 or more animals	750—2,499 animals	less than 750 animals
Swine < 55 pounds	10,000 or more animals	3,000—9,999 animals	less than 3,000 animals
Sheep and lambs	10,000 or more animals	3,000—9,999 animals	less than 3,000 animals
Ducks with liquid manure handling	5,000 or more animals	1,500—4,999 animals	less than 1,500 animals
Chickens with liquid manure handling	30,000 or more animals	9,000—29,999 animals	less than 9,000 animals
Ducks with dry manure handling	30,000 or more animals	10,000—29,999 animals	less than 10,000 animals
Laying hens with dry manure handling	82,000 or more animals	25,000—81,999 animals	less than 25,000 animals
Chickens (other than laying hens) with dry manure handling	125,000 OR more animals OR greater than or equal to 100,000 ft ² capacity	37,500—124,999 animals AND less than 100,000 ft ² capacity	less than 37,500 animals
Turkeys	55,000 or more animals	16,500—54,999 animals	less than 16,500 animals

- 1A. If your operation falls in columns A or B of the chart and discharge from your production area will flow to surface waters of the State, you are defined as a CAFO.
- 1B. If your operation falls in column A of the chart and discharge from your production area does not flow to surface waters, but to ground waters, then you are defined as a MAFO.
- 1C. If your operation falls in Column C, you do not have to apply for coverage under the GD Permit as a CAFO or MAFO unless your operation is found by MDE or EPA to have the potential of polluting the waters of the State, such as having animal access to surface waters or animal waste stored in such a way to pollute surface waters.
- 1D. If your operation falls in Column B, is a chicken with dry manure handling operation whose total house capacity is greater than 75,000 square feet and less than 100,000 square feet, and you did not sign a Certification of Conformance by **December 1, 2012, then your operation was automatically designated as a MAFO and you must submit a NOI and, if available, required plans.**
(MDE or EPA may designate any AFO as a CAFO if conditions warrant. MDE may designate any AFO as a MAFO if conditions warrant.)
- 1E. If your operation falls in Column B and is a chicken with dry manure handling operation whose total house capacity is 75,000 square feet or less, then you are not subject to regulation as a CAFO or MAFO, unless designated by MDE.
- 1F. If your operation falls in Column B and is not a chicken with dry manure handling operation and discharge from your production area does not flow to surface waters, but to ground waters, then your operation is not defined as a CAFO or a MAFO, unless MDE designates you as one.

Step 2: Find the category on the chart that applies to your operation and submit the listed documentation required to apply for the GD Permit as a CAFO or a MAFO.

Category 1: CAFOs currently registered under the previous General Permit 96-AF must immediately submit:

- NOI to comply with the GD Permit; AND
- Comprehensive Nutrient Management Plan (CNMP) developed by the USDA's Natural Resources Conservation Service (NRCS) or a planner certified by NRCS.

Category 2: Existing AFO newly defined as a CAFO from Step 1, including poultry CAFOs with dry manure handling must immediately submit a NOI AND CNMP.

Note: If you operated an AFO that meets the criteria for Category 1 or 2 that existed prior to February 27, 2009, State regulation required that you apply for coverage under the GD Permit by February 27, 2009. If you have not yet submitted an application, you should apply for coverage immediately.

Category 3: Existing AFO that is defined as a MAFO from Step 1 must immediately submit:

- NOI and the following plans:
 - o Maryland Department of Agriculture Nutrient Management Plan (NMP) AND a Soil Conservation and Water Quality Plan (CP); OR
 - o CNMP.

Category 4: An AFO that is newly designated as either a MAFO or CAFO by MDE, no later than 90 days after receiving written notice of the designation, must submit:

- MAFO:
 - NOI, NMP AND a CP; OR

- NOI AND a CNMP
- CAFO:
 - NOI AND a CNMP.

Category 5: An existing AFO on December 1, 2009, that later expands to become a MAFO or CAFO, no later than 90 days after receiving written notice of the designation must submit:

- MAFO:
 - NOI, NMP AND CP OR
 - NOI AND CNMP
- CAFO:
 - NOI AND CNMP.

Category 6: New CAFOs or MAFOs may not begin operation prior to receiving written notification from the MDE that the AFO is registered under the GD Permit. Construction of the operation may be performed, but animals may not be grown until the operation is registered.

- New AFOs meeting the criteria of a CAFO must apply for coverage under the GD Permit within 180 days before beginning operation but can begin operation as soon as they are registered under the GD Permit;
- New AFO meeting the criteria of a MAFO must apply at least 90 days before beginning operation but can begin operation as soon as they are registered under the GD Permit;
- New sources must comply with the permit requirements for an approved Nutrient Management Plan and Soil Conservation and Water Quality Plan as of the date of permit coverage.

Category 7: New/proposed AFOs that are not CAFOs or MAFOs that raise “chickens (other than laying hens) with dry manure handling” with a house capacity greater than 75,000 square feet, may send in a “Certification of Conformance” prior to receiving animals and, if accepted by MDE, do not have to apply for the GD Permit.

Comprehensive Nutrient Management Plans:

What is a Comprehensive Nutrient Management Plan or CNMP?

- A CNMP is a soil and water quality conservation plan that is fully integrated with a nutrient management plan. It is a specific farm plan to ensure that producers make the best use of manure and poultry litter while also protecting water quality.
- A CNMP guides the management of the production, handling, storage and/or treatment of all nutrients on the farm, from feed to manure. The CNMP is individually designed, considering the unique land, labor and equipment resources of your operation. The U.S. Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) or a NRCS certified technical service provider works with you to create a CNMP that best meets your management objectives and environmental concerns, while meeting NRCS technical standards. CNMPs include a description of manure storage structures, handling methods, application rates, erosion control practices, guidance on when and where to apply manure and litter, and a record-keeping tool.
- A CNMP is the starting point to minimizing any potential for nutrients or other pollutants from the production area and the land application area to discharge to the waters of the State.

How do I obtain a CNMP for my farm operation?

- NRCS will help you design a CNMP specifically for your operation. Assistance in developing your CNMP may also be available from certified Technical Service Providers (TSPs). You may qualify for financial assistance for CNMP development under the NRCS Environmental Quality Incentives Program (EQIP). For more information on how to have a CNMP

developed for your operation, contact your local USDA Field Office Service Center
<http://www.md.nrcs.usda.gov/contact/directory/>

What if I am not able to obtain a CNMP immediately?

- You may not have been able to have a CNMP developed in time to send it in with your NOI due to the limited number of certified technical service providers (TSPs) or NRCS certified conservation planners. MDE is working with NRCS to train additional TSPs. In the meantime, for those farms that have submitted their NOIs and CNMP Status Forms without the CNMP, MDE are requiring farmers to sign **compliance agreements** that will certify that they are taking the necessary steps on a prescribed schedule to obtain coverage under the GD Permit. These compliance agreements with schedules will also require the farms to enhance their operation as necessary to reduce any production area runoff from polluting the surface waters of the State. MDE is working with NRCS to prioritize farms that are in need of a CNMP based on several factors including their potential to pollute the surface waters of the State.

Step 3: MDE Review: MDE reviews the NOI and the required plans (CNMP, NMP, or CP) to determine if the required plans satisfy the requirements for the GD Permit. If MDE determines that the required plans satisfy the requirements of the GD Permit, MDE prepares a preliminary approval.

Step 4: Public Participation: MDE publishes a public notice of the preliminary approval of the NOI and the required plans and provides 30 days for public comments. For CAFOs, the notice also specifies the procedure for making a written request for public hearing regarding the preliminary approval of the NOI and the required plans. MDE schedules a public hearing when a written request is received within 20 days of the publication of the public notice. MDE prepares and publishes a notice of final approval of the required plans unless no modifications are made in which case the AFO is registered as in Step 5. Any person aggrieved by MDE's final approval may request a contested case hearing and, following that, may challenge the final approval in court. All public notifications will be posted on MDE's web site at
http://www.mde.state.md.us/Programs/LandPrograms/Solid_Waste/cafo_search/index.asp.

Both CAFOs and MAFOs have a public comment period, however, MAFOs have no opportunity for a hearing.

Step 5: CAFO/MAFO Registration under GD Permit

CAFOs:

- If there are no requests for a public hearing, you will receive a letter stating that your CAFO is registered under the GD Permit. This letter will include details explaining what the enforceable elements of your CNMP are.
- If there is a public hearing and significant comments are received, MDE will publish a final approval which addresses those comments. You will then receive a letter stating that your CAFO is registered under the GD Permit. This letter will include details explaining what the enforceable elements of your CNMP are.

MAFOs:

- Although there is no requirement for holding a public hearing for MAFOs, comments are still invited. If significant comments are received, we will publish a final approval which addresses those comments. You will then receive a letter stating that your MAFO is registered under the GD Permit. This letter will include details of the enforceable elements of your required plans.

**For questions, please contact Mr. Gary Kelman at 410-537-4423 or
gary.kelman@maryland.gov.**

